

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 18

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte RANDOLPH A. STERN and MICHAEL N. BYLES

Appeal No. 2002-1332
Application No. 09/553,329

ORDER REMANDING TO EXAMINER

Appellants filed a reply brief on April 12, 2002 (Paper No. 17) in response to the examiner's answer entered January 29, 2002 (Paper No. 16). However, there is no indication on the record whether or not the examiner has responded to the reply brief. Section § 1208.03 of the Manual of Patent Examining Procedure (8th ed., Aug. 2001) states:

[A]ppellant may file a reply brief as a matter of right within 2 months from the mailing date of the examiner's answer. . . . The primary must then either: (A) acknowledge receipt and entry of the reply brief by using form paragraph 12.47 on form PTOL-90; or (B) reopen prosecution to respond to the reply brief. See MPEP § 1208.02.

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Accordingly, it is

ORDERED that this application be remanded to the examiner for: 1) proper response to reply brief, or 2) to reopen prosecution; and 3) for such further action as may be appropriate.

It is important that the Board of Patent Appeals and Interferences be informed promptly of any action affecting the status of this appeal (i.e., abandonment, issue, reopening prosecution).

BOARD OF PATENT APPEALS
AND INTERFERENCES

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